

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/ST/957

<u>Applicant</u>	:	Sunday Limited
<u>Premises</u>	:	Unit K (Portion), G/F, On Wah Industrial Building, 41-43 Au Pui Wan Street, Fo Tan, Sha Tin, N.T.
<u>Floor Area</u>	:	15m ² (about)
<u>Lease</u>	:	(a) STTL No. 70 (New Grant No. 11297) (b) to be expired on 30.6.2047 restricted to industrial and/or godown purposes or both
<u>Plan</u>	:	Draft Sha Tin Outline Zoning Plan (OZP) No. S/ST/33 at the time of submission Approved Sha Tin OZP No. S/ST/34 currently in force
<u>Zoning</u>	:	“Industrial” (“I”)
<u>Application</u>	:	Shop and Services (Retail Shop)

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application premises (the Premises) for ‘Shop and Services (Retail Shop)’ use. According to the Notes of the OZP, ‘Shop and Services (not elsewhere specified) (ground floor only, except in wholesale conversion of an existing building and Ancillary Showroom which may be permitted on any floor)’¹ use in “I” zone requires planning permission from the Town Planning Board (the Board).
- 1.2 The Premises, with a floor area of about 15m², is located on the ground floor of On Wah Industrial Building abutting Au Pui Wan Street. It is the subject of a previous application (No. A/ST/771) submitted by the same applicant for the same use approved by the Rural and New Town Planning Committee (the Committee) on 10.2.2012 with conditions on a temporary basis for a period of three years. Approval condition on fire safety measures has been complied with. Planning permission under the previous application expired on 10.2.2015. The subject retail shop, which opens from Mondays to Saturdays from 8am to 7pm, is currently operating without valid planning permission.

¹ ‘Shop and Services (Motor-vehicle Showroom on ground floor, Service Trades only)’ is always permitted in the “I” zone.

1.3 In support of the application, the applicant submitted the application form on 11.5.2018 (**Appendix I**). The floor plan of the Premises submitted by the applicant is shown in **Drawing A-1**.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 9 of the application form at **Appendix I**. They can be summarized as follows:

- (a) the application is the same as the previous application No. A/ST/771 approved by the Committee in 2012. The retail shop is selling daily accessories to office workers nearby for convenience. Some of the products are manufactured by suppliers in Fo Tan; and
- (b) there are parking and loading/unloading facilities in the subject industrial building. The proposed retail shop will not generate any environmental and traffic impact to Fo Tan; and

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

The ‘Town Planning Board Guidelines for Use/Development within “Industrial” Zone’ (TPB PG-No. 25D), which was revised and promulgated in September 2007, is relevant to this application. For a proposed commercial use in an industrial building, relevant planning assessment criteria are summarized as follows:

- (a) it should be demonstrated that there is a genuine need for the proposed use under application and no suitable alternative accommodation can be found in the vicinity. The location and scale of the proposed use should be justified on operational grounds;
- (b) there should be an adequate provision of parking and loading/unloading facilities within the site in accordance with the Hong Kong Planning Standards and Guidelines and to the satisfaction of the Transport Department. The inclusion and operation of the proposed commercial use should not adversely affect the traffic conditions in the local road network; and
- (c) the Fire Services Department should be satisfied on the risks likely to arise or increase from the proposed commercial use under application. Owing to fire safety concern, the aggregate commercial floor areas on the ground floor of an existing industrial building with and without sprinkler systems should as a general principle not exceeding 460m² and 230m² respectively. The limits on aggregate commercial floor area do not apply to uses which are ancillary to or for the purposes of supporting the industrial activities and the routine activities of the workers in the industrial building. These uses include bank, fast food counter

(sited at street level without seating accommodation and licensed as food factory), electrical shop, local provisions store and showroom in connection with the main industrial use. Moreover, the 230m²/460m² criteria do not apply to cases involving conversion of the low zone of an existing industrial building for commercial uses if the commercial portion is completely separated from the industrial portion on the upper floors by a buffer floor of non-hazardous occupancy such as a car-parking floor. In all cases, separate means of escape should be available for the commercial portion.

5. Previous Applications

The Premises is the subject of four previous applications (Nos. A/ST/170, A/ST/288, A/ST/621 and A/ST/771) for various shop and services uses (**Plan A-2 and Appendix II**). All the previous applications were approved with or without conditions by the Committee between 1990 and 2012 on the consideration that the proposed developments were not incompatible with the industrial/industrial-related uses in the surroundings; the proposed developments complied with the relevant Town Planning Board Guideline related to uses/developments in “I” zone; and the relevant departments had no adverse comment. The last application No. A/ST/771, which was submitted by the same applicant for the same use, was approved with conditions by the Committee on 10.2.2012 on a temporary basis for a period of three years and the approval condition on fire safety measures had been complied with. The planning permission under application No. A/ST/771 expired on 10.2.2015.

6. Similar Applications

6.1 The ground floor of On Wah Industrial Building, where commercial floor spaces are found, are abutting Au Pui Wan Street, Tsung Tau Ha Road and Fo Tan Road respectively. On the ground floor of On Wah Industrial Building, there are 17 similar applications for commercial uses which were approved by the Committee between 1984 and 2018. However, there is no valid application that should be counted towards the maximum permissible limit of 460m² for aggregate commercial floor area on the ground floor of an industrial building (with sprinkler system) according to TPB PG-No. 25D (**Plan A-2 and Appendix III**).

6.2 According to the TPB PG-No. 25D, the limits on aggregate commercial floor area are applicable to the subject application. Should the floor area of the Premises be included, the aggregated commercial floor area will be 15m², which is within the maximum permissible limit of 460m².

7. The Premises and its Surrounding Areas (Plans A-1 to A-4)

7.1 The Premises is:

- (a) located on the ground floor (G/F) of On Wah Industrial Building in Fo Tan industrial area; and
- (b) with direct access to Au Pui Wan Street.

7.2 The subject industrial building is:

- (a) 17 storeys in height bounded by Au Pui Wan Street, Tsung Tau Ha Road and Fo Tan Road. Car parking and loading/unloading spaces are provided on the first floor of the building with vehicular access from Au Pui Wan Street; and
- (b) currently occupied by the following uses on various floors:

Floor	Current Uses
G/F (Plan A-3)	Application premises , printing shop, foreign exchange [^] , real estate agency [^] , stationary shop [^] , office equipment company [^] , fast food shop, vehicle repair workshops, recycle centre, metal workshop, engineering workshop, wedding dress shop [#] , aluminium and glass workshop, locked and vacant premises
1/F	Carpark and loading/unloading area
2/F to 16/F	Offices, godowns, workshops, locked and vacant premises

[#]There is no record of planning approval granted for such use.

[^]The planning approval for such use has expired.

7.3 The surrounding areas have the following characteristics:

- (a) Fo Tan is an established industrial area with high-rise industrial buildings;
- (b) MTR Fo Tan Station is located about 450m from the subject industrial building; and
- (c) a centrally located commercial centre (Shatin Galleria) is about 90m from the Premises. Shatin Galleria is zoned “Commercial” (“C”) on the approved Sha Tin OZP No. S/ST/34 (**Plan A-1**) and is the only “C” zone in the vicinity.

8. Planning Intention

The “I” zone of Fo Tan is intended primarily for general industrial uses to ensure an adequate supply of industrial floor space to meet demand from production-oriented industries. Information technology and telecommunications industries and office related to industrial use are also always permitted in this zone.

9. Comments from Relevant Government Departments

9.1 The following Government departments have been consulted and their views on the application are summarised as follows:

Land Administration

9.1.1 Comments of the District Lands Officer/Shatin, Lands Department (DLO/ST, LandsD):

- (a) the Premises is situated at Sha Tin Town Lot No. 70 and is governed under New Grant No. 11297 (“the New Grant”). Under the New Grant, the lot shall not be used for any purpose other than industrial or godown purpose or both excluding offensive trade. No building or buildings shall be erected on the lot except a factory or factories or a warehouse or warehouses or both, ancillary offices and such canteen and other welfare facilities for workmen employed on the lots as may be in the opinion of the Director be necessary and such quarters for watchmen or caretakers as considered essential by the Commissioner for Labour; and
- (b) the proposal under the present application to use the Premises as ‘Shop and Services (Retail Shop)’ is not permitted under lease. However, the premises is currently subject to a temporary waiver (W538) allowing the use of ‘Shop and Services (Retail Shop)’ with a waiver area 15.5m². In this regard, he has no objection to the present application from land administrative perspective.

Building Matters

9.1.2 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW of BD):

he has no objection in principle to the application subject to:

- (a) the use shall comply with the requirements under the Buildings Ordinance without adverse effect to the means of escape of the existing adjoining premises;
- (b) adequate access and facilities for persons with a disability should be provided. Building (Planning) Regulation 72 and Design Manual Barrier Free Access 2008 are relevant;
- (c) the subdivision of the unit/premises should comply with the provisions of Buildings Ordinance/Building (Minor Works) Regulations. The applicant should engage a registered building professional under Buildings Ordinance to co-ordinate the buildings works, if any; and
- (d) the applicant is advised to engage an authorised person to co-ordinate the building works, if any.

Fire Safety

9.1.3 Comments of the Director of Fire Services (D of FS):

- (a) he has no objection in principle to the application subject to:
 - (i) fire service installations and equipment being provided to the satisfaction of Fire Services Department. Detailed fire

services requirements will be formulated upon receipt of formal submission of general building plans; and

- (ii) means of escape separated from the industrial portion is available for the subject unit;
- (b) the building is provided with a sprinkler system so that the maximum permissible aggregate commercial floor area on G/F is 460m² in accordance with TPB PG-No.25D. The applied use should be counted up to the aggregate commercial floor area;
- (c) regarding matters related to fire resisting construction of the Premises, the applicant is reminded to comply with the 'Code of Practice for Fire Safety in Buildings' which is administered by the Building Authority; and
- (d) the applicant should pay attention to the 'Guidance Note on Compliance with Planning Condition on Provision of Fire Safety Measures for Commercial Uses in Industrial Premises' if the application is approved.

9.2 The following Government departments have no objection to/comment on the application:

- (a) Commissioner for Transport ; and
- (b) District Officer/Shu Tin, Home Affairs Department.

10. Public Comment Received During Statutory Publication Period

On 18.5.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, no comment was received.

11. Planning Considerations and Assessments

11.1 The planning intention of the "I" zone is to reserve land primarily for general industrial uses to ensure adequate supply of industrial floor space to meet demand from production-oriented industries. However, commercial uses in industrial buildings within the "I" zone may be permitted on application to the Board based on individual merits and the planning assessment criteria set out in the TPB PG-No. 25D.

11.2 The Premises is located on the ground floor of an existing industrial building with direct access to Au Pui Wan Street. The 'Shop and Services (Retail Shop)' use under application is small in scale and considered not incompatible with the industrial and industrial-related uses in the subject industrial building and the surrounding developments. Similar applications for a range of mixed 'Shop and Services' uses such as fast food shop, retail shop and real estate agency have been approved for other units on the ground floor of the subject industrial building (**Plan A-2** and **Appendix III**) and its vicinity.

- 11.3 The subject industrial building is subject to a maximum permissible limit of 460m² for aggregate commercial floor area on the ground floor. Currently there is no valid approved application for commercial uses on the ground floor of the subject building. The aggregate commercial floor area will be 15m² if the floor area of the Premises is included, which is within the maximum permissible limit of 460m². D of FS has no in-principle objection to the application subject to approval conditions on provision of fire service installations.
- 11.4 The 'Shop and Services (Retail Shop)' use under application generally complies with the relevant considerations set out in the TPB PG-No. 25D including the fire safety and traffic aspects. Relevant Government departments, including BD and TD have no objection to or no adverse comment on the application.
- 11.5 The previous application (No. A/ST/771) submitted by the same applicant for the same use was approved with conditions by the Committee in 2012 on a temporary basis for a period of three years. The approval condition related to the submission and implementation of fire safety measures has been complied with. The planning permission expired in February 2015. There is no change in planning circumstances since the approval of the previous application.
- 11.6 A temporary approval of three years is recommended in order not to jeopardise the long term planning intention of industrial use for the Premises and to allow the Committee to monitor the supply and demand of industrial floor space in the area.
- 11.7 No public comment was received during the statutory public inspection period.

12. Planning Department's Views

- 12.1 Based on the assessment made in paragraph 11 above, the Planning Department has no objection to the application on a temporary basis for a period of three years.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of three years until 6.7.2021. The following approval conditions and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) the submission and implementation of the fire safety measures within 6 months from the date of the approval to the satisfaction of the Director of Fire Services or of the Board by 6.1.2019;
- (b) if the above planning condition is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory Clauses

The recommended advisory clauses are attached at **Appendix IV**.

12.3 There is no strong reason to recommend rejection of the application.

13. Decision Sought

13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.

13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.

13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

14. Attachments

Appendix I	Application form received on 11.5.2018
Appendix II	Details of previous applications
Appendix III	Similar applications for shop and services at G/F of On Wah Industrial Building
Appendix IV	Recommended advisory clauses
Drawing A-1	Floor Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Floor Plan
Plans A-4a to A-4c	Site Photos

**PLANNING DEPARTMENT
JULY 2018**